

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No.
	)	05-00214-01-CR-W-DW
TIMOTHY BURTIN,	)	
	)	
Defendant.	)	

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on October 13, 2005. Defendant Timothy Burtin appeared in person and with Assistant Federal Public Defender Steve Moss. The United States of America appeared by Assistant United States Attorney Patrick O'Connor.

***I. BACKGROUND***

On June 8, 2005, an indictment was returned charging defendant with one count of possession with intent to distribute crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A) , and one count of carrying a firearm in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c).

The following matters were discussed and action taken during the pretrial conference:

## ***II. TRIAL COUNSEL***

Mr. O'Connor announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Joe Marquez, AUSA, and Eric Benson, Kansas City, Missouri, Police Department.

Mr. Moss announced that he will be the trial counsel for defendant Timothy Burtin. Alan Bush, Investigator, will be present along with intern Traer Cundiff.

## ***III. OUTSTANDING MOTIONS***

There are no pending motions in this case.

## ***IV. TRIAL WITNESSES***

Mr. O'Connor announced that the government intends to call 27 witnesses without stipulations or 13 to 15 witnesses with stipulations during the trial.

Mr. Moss announced that defendant Timothy Burtin intends to call 5 witnesses during the trial. The defendant may testify.

## ***V. TRIAL EXHIBITS***

Mr. O'Connor announced that the government will offer approximately 82 exhibits in evidence during the trial.

Mr. Moss announced that defendant Timothy Burtin will offer no exhibits in evidence during the trial.

## ***VI. DEFENSES***

Mr. Moss announced that defendant Timothy Burtin will rely on the defense of general denial.

## ***VII. POSSIBLE DISPOSITION***

Mr. Moss stated this case may be for trial.

## ***VIII. STIPULATIONS***

Stipulations are likely as to chain of custody and chemist's reports.

## ***IX. TRIAL TIME***

Counsel were in agreement that this case will take 2 to 3 days to try.

## ***X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS***

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed June 20, 2005, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by October 13, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, October 19, 2005;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, October 19, 2005. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, 11.0, or 12.0.

***XI. UNUSUAL QUESTIONS OF LAW***

Motions in limine will probably be filed on defendant's two prior convictions under 404(b). There are no unusual questions of law.

***XII. TRIAL SETTING***

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on October 24, 2005. The parties have asked for a setting on the second week of the trial docket. The AUSA has a trial set for the first week.

*/s/ Robert E. Larsen*

ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
October 13, 2005

cc: The Honorable Dean Whipple  
Mr. Patrick O'Connor  
Mr. Steve Moss  
Mr. Jeff Burkholder